

Assembly Bill No. 1920

CHAPTER 917

An act to amend Sections 94100, 94110, 94140, 94153, 94155, and 94344 of, to add Section 94102 to, and to repeal Article 17 (commencing with Section 69905) of Chapter 2 of Part 42 of, the Education Code, relating to postsecondary education.

[Approved by Governor October 14, 1995. Filed
with Secretary of State October 16, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1920, Bordonaro. California Student Loan Authority.

Existing law establishes the California Student Loan Authority, which consists of the Treasurer, the Controller, and the Director of Finance, and, as nonvoting ex officio members, the Director of the Student Aid Commission and the Director of the California Postsecondary Education Commission. Existing law authorizes the California Student Loan Authority, among other things, to purchase or take assignments of or make commitments to purchase or take assignments of insured student loans, to contract in advance for any such student loans, and to contract in advance for any such purchase and pay any amounts payable in respect thereto. Existing law also authorizes the authority to hold or invest in insured student loans and to create pools of insured student loans and to sell bonds backed by the pools of insured student loans.

Existing law also establishes the California Educational Facilities Authority, which consists of the Treasurer, the Controller, the Director of Finance, and 2 members appointed by the Governor. Existing law authorizes the California Educational Facilities Authority, among other things, by contract or by its own employees, to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip projects for certain private colleges. Existing law also authorizes the California Educational Facilities Authority to undertake other responsibilities in connection with projects for those colleges.

This bill would abolish the California Student Loan Authority and would transfer to the California Educational Facilities Authority the authority to finance, directly or through an intermediary, or purchase or take assignments of, or make commitments to finance, directly or through an intermediary, or purchase or take assignments of, student loans, to contract in advance for any such student loans, and to contract in advance for any such financing, purchase, or assignment, and to pay any amounts payable in respect thereto. The bill also would transfer to the California Educational Facilities

Authority the authority to hold or invest in student loans and to create pools of student loans and to sell bonds bearing interest on a taxable or tax-exempt basis or other interests backed by those pools. The bill also would authorize the California Educational Facilities Authority to contract or otherwise provide for the distribution, processing, origination, purchase, sale, servicing, securing, and collection of student loans, and the payment of fees and charges in connection therewith. The bill would also place certain requirements on pledges made to secure authority financing for student loans.

This bill would authorize \$300,000,000 in bonds to be issued for student loan projects. The bill would require the authority to consult with the California Postsecondary Education Commission and the Student Aid Commission with respect to the need for additional financing of student loan projects. The bill would make loans made pursuant to the provisions of the bill subject to provisions pertaining to the defaults on student loans.

This bill would define terms and make other related changes.

The people of the State of California do enact as follows:

SECTION 1. Article 17 (commencing with Section 69905) of Chapter 2 of Part 42 of the Education Code is repealed.

SEC. 2. Section 94100 of the Education Code is amended to read:

94100. It is the purpose of this chapter to give this and future generations of youth the fullest opportunity to learn and develop their intellectual and mental capacities by providing private institutions of higher education within the state an additional means by which to expand, enlarge, and establish dormitory, academic, and related facilities, to finance such facilities, and to refinance existing facilities, and by providing private and public institutions of higher education within the state an additional means to assist students in financing their costs of attendance.

SEC. 3. Section 94102 is added to the Education Code, to read:

94102. All assets and obligations of the California Student Loan Authority, as of the effective date of the act that enacts this section during the 1995–96 Regular Session, are hereby transferred to, and assumed by, the California Educational Facilities Authority. All of those assets shall be used solely for student loan purposes.

SEC. 4. Section 94110 of the Education Code is amended to read:

94110. As used in this chapter, the following words and terms have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) “Authority” means the California Educational Facilities Authority created by this chapter or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the power conferred upon the authority by this chapter is given by law.



(b) “Bond” means bonds, notes, debentures, or other securities of the authority issued pursuant to this chapter.

(c) “Cost,” as applied to a project or portion thereof financed under this chapter, embraces all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period after completion of, the construction as determined by the authority, provisions for working capital, reserves for principal and interest and for extension, enlargements, additions, replacements, renovations and improvements, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) “Dormitory” means a housing unit with necessary and usual attendant and related facilities and equipment.

(e) “Educational facility” means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, health care facility (including for an institution of higher education that maintains and operates a school of medicine, structures or facilities providing or designed to provide services as a hospital or clinic, whether the hospital or clinic is operated directly by the institution of higher education or by a separate nonprofit corporation, the member or members of which consist of the educational institution or the members of its governing body), and parking, maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship or any facility used or to be used primarily in connection with any part of the program of a school or department of divinity.

(f) “Participating college” means a private college that neither restricts entry on racial or religious grounds nor requires all students gaining admission to receive instruction in the tenets of a particular faith, and that, pursuant to this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project.



(g) “Private college” means an institution for higher education other than a public college, situated within the state and that, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level.

(h) “Project” means a dormitory or an educational facility, or any combination thereof, or any function concerning student loans, or interests therein, as determined by the authority.

(i) “Student loan” means any loan having terms and conditions acceptable to the authority that is made to finance or refinance the costs of attendance at any private college, as defined by subdivision (g), or a public college and that is approved by the authority, if the loan is originated pursuant to a program that is approved by the authority.

SEC. 5. Section 94140 of the Education Code is amended to read:

94140. The authority shall have power to do all of the following:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) To adopt and have an official common seal and alter it at pleasure.

(c) To sue and be sued in its own name, and plead and be impleaded.

(d) To borrow money and to issue bonds and notes and other obligations of the authority and to provide for the rights of the holders thereof as provided in this chapter.

(e) To acquire, lease as lessee, hold, and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this chapter.

(f) To acquire in the name of the authority by purchase or otherwise, on the terms and conditions and in the manner as it may deem proper any land or interest therein and other property that it may determine is reasonably necessary for any project, including any lands held by any county, municipality or other governmental subdivision of the state; and to hold and use the same and to sell, convey, lease or otherwise dispose of property so acquired, no longer necessary for the authority’s purposes.

(g) To receive and accept, from any federal or other public agency or governmental entity, grants or loans for or in aid of the acquisition or construction of any project, and to receive and accept aid or contributions from any other source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which the grants, loans and contributions may be made.

(h) To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of projects for participating colleges under this chapter, and from time to time to modify those plans, specifications, designs or estimates.



(i) By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, projects for participating colleges.

(j) To employ consulting engineers, architects, accountants, construction and financial experts, superintendents, and other employees and agents that may be necessary in its judgment and to fix their compensation.

(k) To determine the location and character of any project to be undertaken pursuant to this chapter, and to construct, reconstruct, repair, lease, as lessee or lessor, the same; to enter into contracts for any or all of those purposes; and to designate a participating college as its agent to determine the location and character of a project undertaken by the participating college under this chapter and, as the agent of the authority, to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, and, as agent of the authority, to enter into contracts for any and all of those purposes including contracts for the management and operation of the project.

(l) To establish rules and regulations for the use of a project or any portion thereof and to designate a participating college as its agent to establish rules and regulations for the use of a project undertaken by the participating college.

(m) Generally to fix and revise from time to time and to charge and collect rates, rents, fees and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with holders of its bonds and with any other person, party, association, corporation or other body, public or private, in respect thereof.

(n) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this chapter.

(o) To invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in obligations that are authorized by law for the investment of trust funds in the custody of the Treasurer.

(p) To charge, and equitably apportion among participating colleges, its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(q) To finance, directly or through an intermediary, or purchase or take assignments of, or make commitments to finance, directly or through an intermediary, or purchase or to take assignments of, student loans, to contract in advance for any such student loans, and to contract in advance for any such financing, purchase, or assignment, and to pay any amounts payable in respect thereto. A student loan shall be eligible for financing or purchase by the authority or for assignment hereunder regardless of the repayment

status of the loan. Any pledge made to secure authority financing for student loan project purposes shall be valid and binding from the time the pledge is made. The revenues and receipts of property or interest in the property pledged and thereafter received by the authority, a participating college or public institution of higher education, a servicer, a trustee, or a custodian shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, participating college or public institution of higher education, servicer, trustee, or custodian irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(r) To hold or invest in student loans and to create pools of student loans and sell bonds bearing interest on a taxable or tax-exempt basis or other interests backed by the pools of student loans.

(s) To contract or otherwise provide for the distribution, processing, origination, purchase, sale, servicing, securing, and collection of student loans, the payment of fees, charges, and administrative expenses in connection therewith, and the funding of reserves required or provided for in any resolution authorizing, or trust agreement securing, authority financing for student loan purposes.

SEC. 6. Section 94153 of the Education Code is amended to read:

94153. The total amount of bonds authorized to be outstanding at any one time under this chapter with respect to dormitory or educational facility projects shall be one billion eight hundred million dollars (\$1,800,000,000). The total amount of bonds authorized to be outstanding at any one time under this chapter with respect to student loan projects shall be three hundred million dollars (\$300,000,000). Bonds that are refunded pursuant to Section 94150 or for which the payment of funds otherwise have been placed in escrow prior to maturity or redemption shall no longer be treated as outstanding, for the purpose of this section.

SEC. 7. Section 94155 of the Education Code is amended to read:

94155. On or before March 31 in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants. The authority shall also consult with the California Postsecondary Education Commission and the Student Aid Commission with respect to the need for additional financing of student loan projects.

SEC. 8. Section 94344 of the Education Code is amended to read:



94344. (a) The governing board or other governing authority of any private California postsecondary or vocational educational institution shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified, in writing, at the student's or former student's last known address, that he or she is in default on a loan or loans under any of the following loan programs:

(1) The Stafford Student Loan program.

(2) The Supplemental Loans for Students program.

(3) Any program directly or indirectly financed by the California Educational Facilities Authority.

"Default," as used in this section, with respect to a loan under the Stafford Student Loan program or Supplemental Loans for Students program means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments. "Default," as used in this section, with respect to a program directly or indirectly financed by the California Educational Facilities Authority, means the failure of a borrower to make an installment payment when due, or to meet other terms of the loan, within that period and under the circumstances determined by the California Educational Facilities Authority with respect to that program.

(b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute and when the student or former student demonstrates to either the governing board or other appropriate governing authority of the institution, or the Student Aid Commission and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

The adopted regulations shall not include the withholding of registration privileges.

(c) When it has been determined that an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Student Aid Commission shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) Guarantors, or those who act as their agents or act under their control, who provide information to institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board or other governing authority of the institutions from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the institution by the guarantors, their agents, or those acting under the control of the guarantors.

